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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 9th July 2008

No. 7467—li/1(SS)-48/2003-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 24th April 2008 in Industrial Dispute Case No. 36 of 2003 of the Presiding Officer, Industrial Tribunal, Rourkela to whom the industrial dispute between the management of the Managing Director, Orissa Spinning Mills Limited, Rajgangpur and their workmen represented by General Secretary, Orissa Spinning Mills Workers Union, Rajgangpur was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

**IN THE COURT OF PRESIDING OFFICER
INDUSTRIAL TRIBUNAL, ROURKELA**

INDUSTRIAL DISPUTE CASE NO. 36 OF 2003

Dated the 24th April 2008

Present :

Shri Srikanta Nayak,
Presiding Officer, Industrial Tribunal,
Rourkela.

Between :

The Managing Director,
Orissa Spinning Mills Limited,
Rajgangpur, Dist. Sundargarh. . . First Party—Management

And

Their workmen, represented by
General Secretary,
Orissa Spinning Mills Workers Union,
Rajgangpur,
Dist. Sundargarh. . . Second Party—Workmen

Appearances :

For the First Party—Management	..	None
For the Second Party—Workmen	..	Shri G. N. Tripathy, Secretary.

AWARD

This order arises out of a reference made by the Government under sub-section (5) of Section 12, read with clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act to the effect that :

“Whether the introduction of four hours of extra work in Ring Frame Department and Open End Department of the Orissa Spinning Mills Limited, Rajgangpur by the management of M/s Orissa Spinning Mills Limited at the single rate by deferring the payment of balance overtime dues with sole motive to increase production is legal and/or justified ? If not, what should be the details of modalities ?

2. The case of the workman second party is that the Orissa Spinning Mills Workers Union, Rajgangpur was recognised Union and Mill started in the year 1970. But all of a sudden the management stopped the Mill by way of suspension of production which continued up to 1985. There was a demand in the year 1986. The Mill was opened and functioned smoothly till 1998. The workmen submitted 24 demands which was referred to conciliation and the same was pending. The workers in the year 2001-2002 demanded payment for bonus and payment of minimum wages. By receiving such demand the management stopped the Mill and declared lockout. On the 26th March 2003 the management issued notice to introduce 4 hours extra duty at single rate, payment without any discussion with the Union. So the workers raised objection and when the conciliation failed the matter was referred to this tribunal.

3. The case of the management is that the management purchased the Mill in the year 1976 from Orissa State Financial Corporation and it started production in the year 1977. From the inception the Factory could not reached its target of its production. To overcome the situation, a tripartite agreement was held on the 22nd March 2003 between the management and the Sundargarh Industrial Mazdoor Union and the Union agreed for of four hours extra work at single rate payment at the Ring Frame and Open End Department. The second party was not a recognised Union. The extension of working hour were essential to reach the target. So the dispute is not maintainable. As the workers were on strike the management was to declare lockout.

4. On the aforesaid pleadings of the parties, the following issues were framed :—

ISSUES

(i) “Whether the reference is maintainable ?

(ii) Whether the introduction of four hours of extra work in Ring Frame Department and Open End Department of the Orissa Spinning Mills Limited, Rajgangpur by the management of M/s Orissa Spinning Mills Limited at the single rate by deferring the

payment of balance overtime dues with sole motive to increase production is legal and/or justified ?

(iii) If not what should be the details of modalities ?”

5. The workmen examined one witness in support of their case and the management failed to appear and hence he was set *ex parte*.

6. *Issue Nos. (i) to (iii)*—M. W. 1 deposed that the Mill was functioning in three shifts and Ext. 1 is the recognition letter issued by the management recognising their Union. They made a charter of demand and Ext. 2 is the said demand and Ext. 3 is the letter demanding Minimum Wages. The management enhanced the working hours to work four hour more. They raised objection and Ext. 4 is the letter. The management declared lockout. so they intimated to the Labour Officer under Ext. 5 series. The management failed to attend the conciliation so the dispute was referred to this Court.

7. Ext. 1 is the letter issued by the management which reveals that the management recognised the Union of the workmen. It is not disputed that the management enhanced the working hours and asked them to work for four hours more at single rate payment. This fact was admitted by the management in the show cause filed by them. W. W. 1 also deposed to that effect. As per the show cause filed by the management no discussion was held between Orissa Spinning Mills Workers Union. But discussion was took place with Sundargarh Industrial Mazdoor Union. When the working hours were enhanced without issue of any notice and without discussion with the Union, the same cannot be held to be legal. W. W. 1 admitted that they have not worked extra hours. So they are not entitled to any wages for the mere fact that the working hours were enhanced. Hence ordered the extension of four hours of works more is illegal and as the workers were not worked within extended working hours, they are not entitled to extra wages. The reference is answered accordingly.

Dictated and corrected by me.

SRIKANTA NAYAK
24-4-2008
Presiding Officer
Industrial Tribunal, Rourkela

SRIKANTA NAYAK
24-4-2008
Presiding Officer
Industrial Tribunal, Rourkela

By order of the Governor
K. C. BASKE
Under-Secretary to Government